

Chapter 3

Prohibiting Employment of Relatives

52-3-1 Employment of relatives prohibited -- Exceptions.

- (1) For purposes of this section:
 - (a) "Appointee" means an employee whose salary, wages, pay, or compensation is paid from public funds.
 - (b) "Chief administrative officer" means the person who has ultimate responsibility for the operation of the department or agency of the state or a political subdivision.
 - (c) "Public officer" means a person who holds a position that is compensated by public funds.
 - (d) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
- (2)
 - (a) No public officer may employ, appoint, or vote for or recommend the appointment of a relative in or to any position or employment, when the salary, wages, pay, or compensation of the appointee will be paid from public funds and the appointee will be directly supervised by a relative, except as follows:
 - (i) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;
 - (ii) the appointee will be compensated from funds designated for vocational training;
 - (iii) the appointee will be employed for a period of 12 weeks or less;
 - (iv) the appointee is a volunteer as defined by the employing entity; or
 - (v) the chief administrative officer determines that the appointee is the only or best person available, qualified, or eligible for the position.
 - (b) No public officer may directly supervise an appointee who is a relative when the salary, wages, pay, or compensation of the relative will be paid from public funds, except as follows:
 - (i) the relative was appointed or employed before the public officer assumed his position, if the relative's appointment did not violate the provisions of this chapter in effect at the time of his appointment;
 - (ii) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;
 - (iii) the appointee will be compensated from funds designated for vocational training;
 - (iv) the appointee will be employed for a period of 12 weeks or less;
 - (v) the appointee is a volunteer as defined by the employing entity;
 - (vi) the appointee is the only person available, qualified, or eligible for the position; or
 - (vii) the chief administrative officer determines that the public officer is the only person available or best qualified to perform supervisory functions for the appointee.
 - (c) When a public officer supervises a relative under Subsection (2)(b):
 - (i) the public officer shall make a complete written disclosure of the relationship to the chief administrative officer of the agency or institution; and
 - (ii) the public officer who exercises authority over a relative may not evaluate the relative's job performance or recommend salary increases for the relative.
- (3) No appointee may accept or retain employment if he is paid from public funds, and he is under the direct supervision of a relative, except as follows:

- (a) the relative was appointed or employed before the public officer assumed his position, if the relative's appointment did not violate the provisions of this chapter in effect at the time of his appointment;
- (b) the appointee was or is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;
- (c) the appointee is the only person available, qualified, or eligible for the position;
- (d) the appointee is compensated from funds designated for vocational training;
- (e) the appointee is employed for a period of 12 weeks or less;
- (f) the appointee is a volunteer as defined by the employing entity; or
- (g) the chief administrative officer has determined that the appointee's relative is the only person available or qualified to supervise the appointee.

Amended by Chapter 56, 2015 General Session

52-3-2 Each day of violation a separate offense.

Each day any such person, father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousins, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law, is retained in office by any of said officials shall be regarded as a separate offense.

No Change Since 1953

52-3-3 Penalty.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor.

Amended by Chapter 79, 1953 Special Session C

52-3-4 Exceptions in towns and rural areas.

- (1) In a town, as defined in Section 10-1-104, this chapter shall not apply to the employment of uncles, aunts, nephews, nieces, or cousins.
- (2) This chapter shall not apply to the employment of a relative if:
 - (a) fewer than 3,000 people live within 40 miles of the primary place of employment, measured over all weather public roads;
 - (b) the job opening has had reasonable public notice; and
 - (c) the relative is the best qualified candidate for the position.
- (3) In any proceeding challenging the hiring of a relative under the exception in Subsection (2), the employer has the burden of establishing each of the criteria provided in Subsections (2)(a) through (c).

Amended by Chapter 13, 1998 General Session